

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The amendments provide the Department’s annual updates of the statewide average cost of nursing facility services to a private-pay resident and the statewide average charges or maximum Medicaid rate for four levels of care in a medical institution.

The statewide average cost of nursing facility services to a private-pay resident is determined by a survey of nursing facilities, including freestanding facilities, hospital-based skilled nursing facilities, and facilities serving special populations. This monthly average cost has increased from \$4,598.61 to \$4,842.72 (equivalent to \$159.30 per day). This amount is used to determine the period of ineligibility for Medicaid payment of nursing facility care and other long-term care services that is required when a person has transferred assets for less than market value to obtain Medicaid eligibility. The amount transferred is divided by this monthly average cost to determine the number of months of ineligibility. Since the cost has gone up, the resulting periods of ineligibility will be slightly shorter.

Iowa Code chapter 633C requires the Department to determine and publish the statewide average charges or maximum Medicaid rate for various levels of institutional care. These amounts are used to regulate the disposition of funds in a medical assistance income (Miller-type) trust. A medical assistance income trust allows a person whose income is above the Medicaid income limit for long-term care (currently \$2,022 per month) but is less than the cost of care in a medical institution to attain eligibility by depositing the income in a trust. Only the income released from the trust is counted as income in the determination of Medicaid eligibility. Changes in the average charge or maximum figures are as follows:

- Nursing facility care: increases from \$4,189 per month to \$4,422 per month, based on data from freestanding facilities only, since the cost of special care is considered separately.
- ICF/MR care: increases from \$20,960 to \$23,845 per month.
- Care in a mental health institute: decreases from \$17,758 per month to \$16,720 per month.
- Care in a psychiatric medical institution for children: decreases from \$5,044 per month to \$5,101 per month.

The amendments also clarify that only one of the conditions listed in paragraph 75.23(5)“c” must be met to qualify for an exemption from the period of ineligibility for transfer of an asset at less than full market value.

These amendments do not provide for waivers in specified situations, since these amounts are derived through a standard methodology and are required by statute.

The Council on Human Services adopted these amendments on June 9, 2010.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the Department has no discretion in setting these amounts.

The Department finds that these amendments confer a benefit on the public by carrying out the Department’s statutory responsibility to make available to the public the specific amounts for the thresholds referenced in the statute. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.4 and Iowa Code chapter 633C.

These amendments shall become effective on July 1, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual’s spouse) on or after the look-back date specified in 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide

cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2009~~ 2010, through June 30, ~~2010~~ 2011, this average statewide cost shall be ~~\$4,598.61~~ \$4,842.72 per month or ~~\$151.27~~ \$159.30 per day.

ITEM 2. Amend paragraph **75.23(5)“c”** as follows:

c. A satisfactory showing is made that one of the following is true:

(1) to (3) No change.

ITEM 3. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2009~~ 2010, to June 30, ~~2010~~ 2011, shall be as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,189~~ \$4,422 per month.

(2) and (3) No change.

(4) The maximum statewide Medicaid rate for a resident of an intermediate care facility for the mentally retarded is ~~\$20,960~~ \$23,845 per month.

(5) The average statewide charge to a resident of a mental health institute is ~~\$17,758~~ \$16,720 per month.

(6) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$5,044~~ \$5,010 per month.

(7) No change.

[Filed Emergency 6/10/10, effective 7/1/10]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/30/10.